

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KUUBIX GLOBAL, LLC,

Plaintiff,

v.

MARK ORWIG, et al.,

Defendants.

Case No. 1:23-cv-00785-ADA-EPG

ORDER RE: PLAINTIFF'S NOTICE OF  
VOLUNTARY DISMISSAL

(ECF No. 46).

On December 1, 2023, Plaintiff filed a notice of voluntary dismissal dismissing this action without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) as Defendants have not filed an answer or a motion for summary judgment.<sup>1</sup> (ECF No. 46). In light of the voluntary dismissal, this action has been terminated, Fed. R. Civ. P. 41(a)(1)(A)(i), and has been dismissed without prejudice. *See Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997).

Accordingly, the Clerk of Court is respectfully directed to close the case.

IT IS SO ORDERED.

Dated: **December 4, 2023**

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> The Court notes that Defendants have filed a motion to dismiss (*See* ECF Nos. 25, 37, 38); however, Plaintiff still has the right to dismiss this case. *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) (“Under Rule 41(a)(1), a plaintiff has an absolute right voluntarily to dismiss his action prior to service by the defendant of an answer or a motion for summary judgment. Even if the defendant has filed a motion to dismiss, the plaintiff may terminate his action voluntarily by filing a notice of dismissal under Rule 41(a)(1).”) (internal citations omitted).